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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/814,210

03/21/2001

Jim Spelman

SJM-10002/15

2314

25006

7590

09/16/2009

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EXAMINER

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ART UNIT

PAPER NUMBER

3611

MAIL DATE

DELIVERY MODE

09/16/2009

PAPER

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/814,210
Filing Date: March 21, 2001
Appellant(s): SPELMAN, JIM

Douglas J. 1VicEvoy
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed September 3, 2009 appealing from the Office action mailed October 21, 2008.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

No amendment after final has been filed.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

8425136	GUTHRIE (AUSTRALIAN)	09-1984
3237330	DINSTBIR	03-1966
2915849	JOHNSTON	12-1959

841706

MORDEN

01-1907

(9) Grounds of Rejection

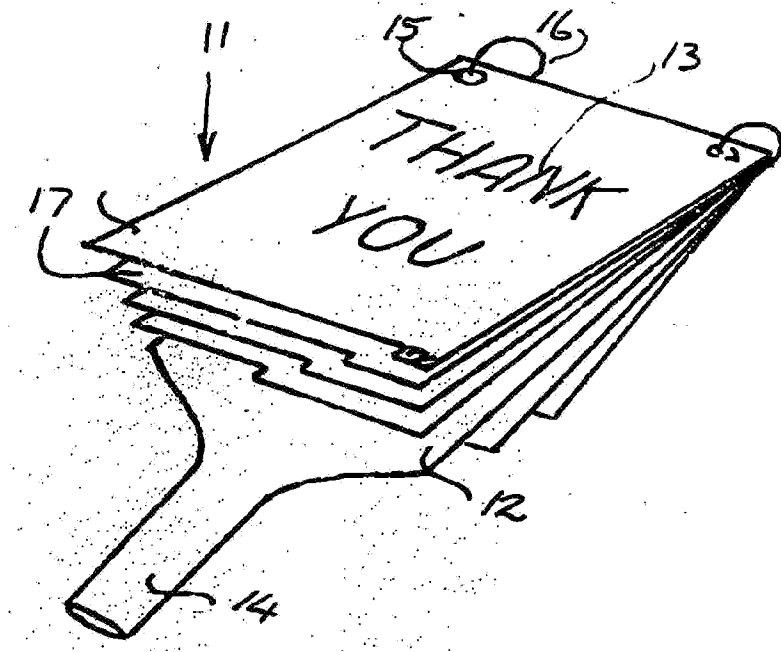
The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

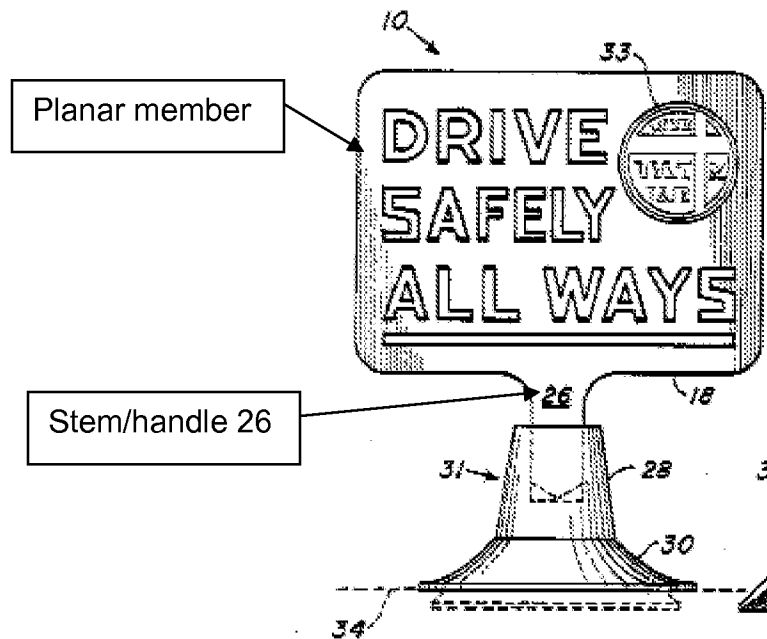
(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3 and 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable •
over Guthrie, Australian Patent AU-A-25136/84 (AU 84 25136) in view of Dinstbir, U. S. Patent 3,237,330. Guthrie teaches a communication board comprising a support including a handle portion 14, a rigid planar display portion/panel 12 having a first surface and a second oppositely facing surface and two spaced apart holes 15. Guthrie also teaches a plurality of display sheets/flaps 17 rotateably secured to the top edge of the display portion/panel 12 utilizing rings 16. The rings 16 are adapted to pass through holes 15 in the display panel/portion 12 and similar spaced apart holes in the flaps or sheets 17, wherein each flap or sheet 17 has a message printed thereon. The sheets are mounted so that a sheet may be rotated about the display portion/panel 12 from the first surface of the display portions to a second surface the opposite side of the first surface of the display portion.



Guthrie does not teach a display mount at a specific location within the vehicle, whereby the handle may be seatedly engaged.

Dinstbir teaches a warning device for vehicles comprising a panel 10 and base 31. The panel has planar member 18 and a stem/handle 26. The base or mounting member 31 has a boss 28 and a suction cup 30 for removeably securing the base/mounting member to surface of vehicle. In operation the stem/handle of the panel 10 is inserted in to an opening in the boss 28 of the base member 31.



It would have been obvious to one having ordinary skill in the art at the time this invention was made to mount the handle of the device taught by Guthrie in the boss of the base/mounting member as taught by Dinstbir to provide a means to selectively mount the device on the dashboard of a vehicle and to provide means of conveying information to passing motorist while allowing the driver to safely keep both hands of the steering wheel.

With respect to claim 2, Guthrie does not teach the sheets/flaps comprising a semi-rigid poster board material. However, the examiner takes OFFICIAL NOTICE that the use of semi-rigid poster board material is old and well known in the art and would have been obvious to use to provide more durable display sheets which would not tear or bend easily.

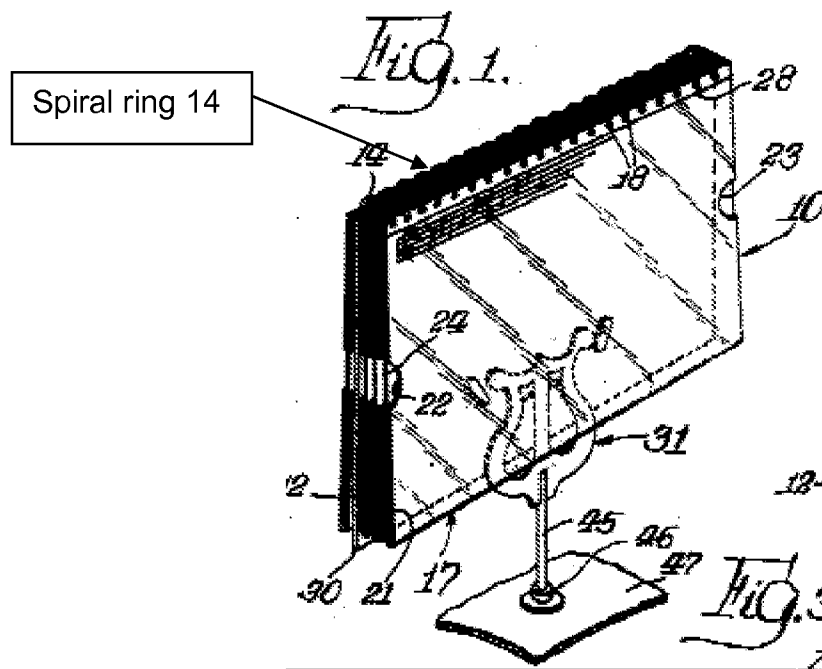
With respect to claim 3, Guthrie teaches the pivotally binding comprising a pair of rings 16 extending through proximate top edge display portion 12 opposite the handle.

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With respect to claim 9, Guthrie teaches the handle and display portion made of plastic.

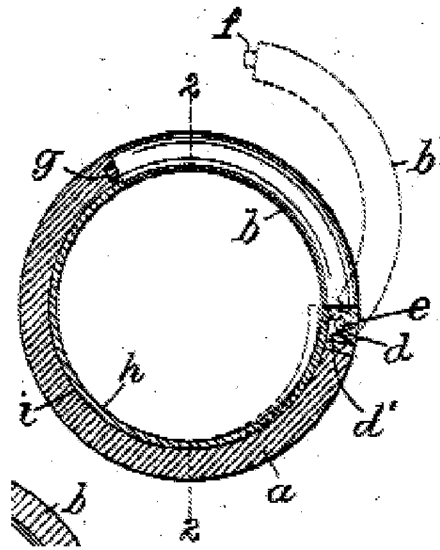
With respect to claim 10, since the applicant does not teach that having the sheet having a width of 12" and a height of 6" solves any stated problem or is for any particular purpose, it appears that construct the device of any suitable dimension would perform equally well.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Guthrie in view of Dinstbir as applied to claim 1 above and in view of Johnston, U. S. Patent 2,915,849. Johnston teaches a holder comprising a support including a handle portion 45, a rigid planar display portion 12, and a plurality of display sheets 17 rotateably secured to the top edge of the display portion utilizing either a pair of rings 16 or spiral ring 14. The sheets are mounted so that the sheets may be rotated from a first position adjacent a first side of the display portions to a second position adjacent the opposite side of the display portion.



It would have been obvious to one having ordinary skill in the art at the time this invention was made to construct the communication board with rings taught by Guthrie with spiral rings as taught by Johnson as an alternate means to binding the sheets together that more securely retains each sheet.

Claim 4 and 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Guthrie in view of Dinstbir, U. S. Patent 3,237,330 as applied to claim 1 above and in further view of Morden, U. S. Patent 841,706. Morden teaches a ring binder comprising a first portion and a second movable portion **b** hinged to the first portion at **e**. Morden also teaches latch comprising a pin **f** engageable with detent **g**.



It would have been obvious to one having ordinary skill in the art at the time this invention was made to construct the ring taught by Guthrie with the ring taught by Morden to provide a means to selectively attached and remove the ring to the display portion.

Claims 11 and 12 rejected under 35 U.S.C. 103(a) as being unpatentable over Guthrie, Australian Patent AU-A-25136/84 (AU 84 25136).

Guthrie teaches a communication board comprising a support including a handle portion 14, a rigid planar display portion/panel 12 having a first surface and a second oppositely facing surface and two spaced apart holes 15. Guthrie also teaches a plurality of display sheets/flaps 17 rotateably secured to the top edge of the display portion/panel 12 utilizing rings 16. The rings 16 are adapted to pass through holes 15 in the display panel/portion 12 and similar spaced apart holes in the flaps or sheets 17, wherein each flap or sheet 17 has a message printed thereon. The sheets are mounted so that a sheet may be rotated about the display portion/panel 12 from the first surface

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of the display portions to a second surface the opposite side of the first surface of the display portion.

Guthrie does not teach the sheet comprising a semi-rigid poster board material. However, the examiner takes OFFICIAL NOTICE that the use of Semi-rigid poster board material is old and well known in the art and would have been obvious to use to provide more durable display sheets which would not tear or bend easily.

(10) Response to Argument

Applicant's arguments filed September 3, 2009 have been fully considered but they are not persuasive.

With respect to the rejection of claims 1-3 and 8-10 as unpatentable over Guthrie, Australian Patent AU-A-25136/84 (AU 84 25136) in view of Dinstbir, U. S. Patent 3,237,330, the appellant argues "the present claims recite certain features not disclosed or rendered obvious by Guthrie. In particular, no suggestion is made by Guthrie as to the recitation of the display mount at a specified location within the vehicle and within which may be seated the handle portion of the display device." The appellant further argues that the present invention "describes and claims a safety oriented inter-auto display device which permits the application of warning messages" and "the present invention introduces a safety aspect not found in Guthrie." In addition, the appellant argues "Dinstbir does not teach or suggest the plurality of rotateable and pivotally bound sheets as recited in claim 1" and "Dinstbir teaches away from this in that the sheets are seated at their base (stem 26) locations within the interior pocket defined in the dash mounted attaching member 31."

The examiner disagrees. While Guthrie or Dinstbir alone do not teach the claimed invention, the examiner maintains that the combination of Guthrie and Dinstbir teaches the limitation recited in claim 1. Both Guthrie or Dinstbir teach display signs for use in a vehicle, wherein each display sign has a planar upper member having indicia thereon and a bottom portion, which can be used as a handle, stem or post. The bottom portion of the sign taught by Dinstbir can be inserted into a base member so that the indicia on the support planar member can be displayed without being held by the occupant of the vehicle. The examiner maintains that providing a base for the sign taught by Guthrie would have been obvious to provide a hand free means to support the sign so that it is visible. In addition, the examiner maintains that a person having ordinary skill in the art would look to base of the sign taught Dinstbir to provide a support for the sign taught by Guthrie.

With respect to the rejection of claim 6 as being unpatentable over Guthrie in view of Dinstbir as applied to claim 1 above and in view of Johnston, U. S. Patent 2,915,849, the appellant argues "the rigid board supported within the music holder and including upper disposed tings 14 does not teach or suggest the hand- held inter auto display devices as recited in claim 1." The appellant "further submitted that the feature of exhibiting a plurality of spiral binding portions engaging through the display portion, and between first and second sides, proximate to an extending edge opposite the handle portion is further non-obvious in view of Johnston in that it does not disclose a handle portion to begin with, but rather attaches along a bottom edge to a stand member supporting member/clamping device 31."

The examiner disagrees. Guthrie clearly teaches a display device with a planar display portion with a handle, a plurality of sheets rotateable about the planar display portion using ring type binders. Johnson is cited to show used of spiral binder instead of ring binder. Johnson show the flip type display device comprising a plurality of sheet secured together using either a ring or spiral binder. Guthrie, the primary reference clearly teaches the use of ring type binders. The examiner maintains that it would have been obvious to substitute the ring binder of the spiral binder. Since the applicant has not discloses that the spiral binder solves any stated problem or is for any particular purpose, it appears that using any suitable binder would perform equally well in allowing the sheet to be rotated from the front of the planar member to the rear of the planar member.

With respect to the rejection of claims 4 and 5 as being unpatentable over Guthrie in view of Dinstbir, U. S. Patent 3,237,330 as applied to claim 1 above and in further view of Morden, U. S. Patent 841,706, the appellant argues that “the Morden is not combinable with Guthrie and/or Dinstbir, in that it does not teach or suggest application to a hand-held inter auto display device as recited in claim 1.” The examiner disagrees. As stated above, Guthrie clearly teaches a display device with a planar display portion with a handle, a plurality of sheets rotateable about the planar display portion using ring type binders. Morden is cited to show ring binders being separateable so that the ring binder can be attachable and disengageable from the support such as a stack of sheets.

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With respect to the rejection to the rejection of claims 11 and 12 as being unpatentable over Guthrie, Australian Patent AU-A-25136/84 (AU 84 25136).

The examiner maintains that the combination of Guthrie and Dinstbir teaches the limitation recited in claim 1. Both Guthrie or Dinstbir teach display signs for use in a vehicle, wherein each display sign has a planar upper member having indicia thereon and a bottom portion, which can be used as a handle, stem or post. The bottom portion of the sign taught by Dinstbir can be inserted into a base member so that the indicia on the support planar member can be displayed without being held by the occupant of the vehicle. The examiner maintains that providing a base for the sign taught by Guthrie would have been obvious to provide a hand free means to support the sign so that it is visible. In addition, the examiner maintains that a person having ordinary skill in the art would look to base of the sign taught Dinstbir to provide a support for the sign taught by Guthrie.

The rejections are maintained.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Cassandra Davis/
Primary Examiner
Art Unit 3611

Conferees:

Art Unit: 3611

Cassandra Davis /CD/

Marc Jimenez /MJ/

Lesley Morris /LDM/